IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Appeal From Order No. 173 of 2005

Daulat Ram Chopra
S/o Late Lala Ram Das Chopra
R/o 151/23 Rajpur Road, Dehradun
District Dehradun ....Appellant

Versus

1. Civil Judge (Senior Division)
   Dehradun
2. Vikram Agarwal
   S/o Late Mahendra Kumar
   R/o 9 Estle Hall, Dehradun
   District Dehradun ...Respondents

Sri Ramji Srivastava, learned counsel for the appellant
Sri Gopal Narayan, learned counsel for the respondent

Hon'ble P.C.Verma, J.
Hon'ble B.C. Kandpal, J.

This appeal has been preferred by the appellant against the order dated 23.05.2005 passed by Addl. District Judge/IInd F.T.C., Dehradun in Original Suit No. 650 of 2004 Daulat Ram Chopra Vs Vikram Agarwal, whereby the injunction application moved by the appellant under Order XXXIX Rules 1 and 2 C.P.C. was rejected.

We have perused the order impugned in appeal and we find that since the ingredients to grant temporary injunction were not found to be fulfilled, therefore, the application has been rejected. This appeal has been filed arraying the Civil Judge (S.D.) as party. There is no allegation of malafide against the Civil Judge (S.D.).

In view of the law laid down by the Hon'ble Apex Court in the case of ***Savitri Devi Vs District Judge, Garakhpur & others reported in Civil Appeal No. 932 of 1999, decided on 18, 1999*** in which it was provided that the

Judicial Officer should not be a made party. Therefore, we disapprove the array of the party made by the learned counsel for the appellant, which is also wrong, as the impugned order has been passed by the Additional District Judge, Dehradun as trial court.

Even otherwise, we are not satisfied that any relief on the application under Order XXXIX Rules 1 and 2 of the C.P.C. can be granted to the petitioner. Therefore, we affirm the order dated 23.05.2005 passed by the trial court and dismissed the appeal.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

June 14, 2006
ASWAL